

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

THOMAS DWYER, <i>et al.</i>,	:	CASE NO. 1:17-cv-00455-MRB
	:	
Individually and On Behalf of All Others Similarly Situated,	:	
	:	
Plaintiff,	:	(Judge Michael R. Barrett)
	:	
v.	:	
	:	
SNAP FITNESS, INC.,	:	
	:	
Defendant.	:	

**ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

WHEREAS, the above-titled putative class action is pending before the Court; and

WHEREAS, Plaintiff Thomas Dwyer, on behalf of himself and the Settlement Class in the litigation, and Defendant Snap Fitness, Inc. (“Defendant” or “Snap Fitness”), have entered into the Class Action Settlement Agreement and Release dated February 1, 2019 (“Agreement”), which was preliminarily approved by this Court as fair, adequate, and reasonable pursuant to Rule 23 of the Federal Rules of Civil Procedure on March 20, 2019 [ECF No. 29] and which, together with the exhibits thereto, sets forth the terms and conditions for the proposed Settlement of the Litigation and the dismissal of the Litigation with prejudice; and

WHEREAS, notice of the Settlement was provided to Class Members in accord with the Court’s Order Preliminarily Approving Settlement by a Notice electronically mailed to all Class Members for whom Defendant’s records reflected a valid email address and a Postcard Notice to all other Class Members; and

WHEREAS, a notice of Settlement was mailed to government officials as described in 28 U.S.C. § 1715; and

WHEREAS, the Court having conducted a Fairness Hearing on September 9, 2019 at 10:00 a.m., in Courtroom 109 at the United States District Court for the Southern District of Ohio, Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202; and

WHEREAS, based on the foregoing, having considered the papers filed and proceedings held in connection with the Settlement, having considered all of the other files, records, and proceedings in the Action and being otherwise fully advised,

NOW, THEREFORE, the Court hereby **FINDS, CONCLUDES, AND ORDERS:**

1. This Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all Class Members.
2. This Order incorporates the definitions in the Settlement Agreement, and all terms used in the Order have the same meanings as set forth in the Settlement Agreement, unless otherwise defined herein.
3. Pursuant to Fed. R. Civ. P. 23(b)(3), the Court affirms its certification, solely for purposes of effectuating and finalizing the Settlement, of the following Settlement Class:

(a) persons who have paid a Club Enhancement Fee under a Snap Fitness membership agreement that did not mention payment of the Club Enhancement Fee (the “CEF Sub-Class”);

(b) persons who have been a party to a pre-November 2017 Snap Fitness prepaid membership agreement in the state of Ohio and who either (i) canceled their membership during the Class Period while operating under that agreement, or (ii) remain current Snap Fitness members under that agreement (the “PECA Sub-Class”). For purposes of this definition, “canceled” shall mean a termination of membership in which the member did not transfer to another form of Snap Fitness membership within two days, as reflected in Defendant’s business records.

Excluded from the Class are Defendant and its officers and directors; Class Counsel and their partners, associates, lawyers, and employees; and the judicial officers and their immediate family members and associated Court staff assigned to this case.

4. Defendant complied with the notice requirements in the Class Action Fairness Act, 28 U.S.C. § 1715. The Court's docket shows that no Attorney General objected to the Settlement Agreement or otherwise attempted to intervene or participate in the Action or the Fairness Hearing following receipt of the Class Action Fairness Act notice.

5. The Court affirms the appointment of Plaintiff Thomas Dwyer as the Class Representative of the Settlement Class and finds that the Class Representative has fairly and adequately represented the interests of Class Members in connection with the Settlement.

6. The Court affirms the appointment of Bryce A. Lenox of The Law Office of Bryce A. Lenox, Esq. LLC and Brian T. Giles of The Law Office of Brian Giles LLC as Class Counsel for the Class.

7. The persons who have Successfully Opted Out of the Class are identified in Exhibit 1 attached hereto ("Excluded Persons").

8. The Class Representative and the Class Members, and all and each of them, are hereby bound by the terms of the Settlement set forth in the Settlement Agreement. Excluded Persons are no longer parties to this Action and are not bound by the Settlement embodied in the Settlement Agreement.

9. The Settlement set forth in the Settlement Agreement (i) is in all respects fair, reasonable, and adequate to the Class, (ii) was the product of informed, arm's-length negotiations among competent, able counsel, and (iii) was made based upon a record that is sufficiently developed and complete to have enabled the Class Representative and Defendant to adequately evaluate and consider their positions.

10. The terms of the Agreement, and the Settlement provided for therein, are finally approved as fair, reasonable, and adequate and as being in the best interests of the Settlement Class. The Court therefore authorizes and directs implementation of all terms and provisions of

the Settlement Agreement, including, but not limited to, the timely honoring of all valid claims submitted by Class Members.

11. The Notice given to the Class in accord with the Order Preliminarily Approving Settlement was the best notice practicable under the circumstances and constituted sufficient notice to all persons entitled thereto. The form, content, and distribution of the Email Notice, Postcard Notice, and Long-Form Notice, satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and all other applicable law and rules.

12. Judgment shall be, and hereby is, entered dismissing the Action with prejudice, on the merits, and without taxation of costs in favor of or against any Party.

13. The Class Representative and all Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, assigns, and insurers, in their capacities as such, are hereby conclusively deemed to have fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged Defendant Snap Fitness, Inc., and its past and present parents, subsidiaries, franchisees, and affiliated corporations, limited liability companies, partnerships, and other entities, the predecessors and successors in interest of any of them, and all of their respective past and present officers, directors, shareholders, employees, agents, members, partners, representatives, attorneys, insurers, and assigns, in their capacities as such, from any and all claims, actions, causes of action, rights or liabilities, whether arising out of federal, state, foreign, or common law, including Unknown Claims, which exist or may exist against any of the Defendant's Releasees by reason of any matter, event, cause, or thing that were or could have been alleged based on the facts, circumstances, transactions, events, occurrences, acts, omissions, or failures to act alleged, or which Plaintiff requested leave to allege, in the Action (the "Released Claims").

14. The Class Representative and all Class Members are hereby barred and permanently enjoined from instituting, asserting, or prosecuting any or all of the Released Claims against any of the Defendant's Releasees.

15. The Court hereby decrees that neither the Settlement Agreement nor this Order nor the fact of the Settlement is an admission or concession by Defendant or Defendant's Releasees of any fault, wrongdoing, or liability whatsoever, or as an admission of the appropriateness of class certification for trial or dispositive motion practice. This Order is not a finding of the validity or invalidity of any of the claims asserted or defenses raised in the Action. Nothing relating to the Settlement shall be offered or received in evidence as an admission, concession, presumption, or inference against Defendant or Defendant's Releasees in any proceeding, other than such proceedings as may be necessary to consummate or enforce the Settlement or to support a defense based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense.

16. The Court hereby retains jurisdiction over the implementation, administration, interpretation, and enforcement of this Settlement.

17. There being no just reason for delay, the Clerk of Court is hereby directed to enter final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

18. If the judgment does not become final in accord with Section 11.01 of the Settlement Agreement, then the final judgment shall be rendered null and void to the extent provided by and in accord with the Settlement Agreement, and this Order shall be vacated. In such event, all orders entered and releases delivered in connection with the Settlement shall be

null and void. In such event, the Action shall return to its status immediately prior to execution of the Settlement.

Dated: September 18, 2019

s/ Michael R. Barrett

Judge Michael R. Barrett
United States District Judge

EXHIBIT 1
Dwyer v. Snap Fitness, Inc.
Case No. 1:17-cv-00455-MRB

PERSONS WHO ARE EXCLUDED FROM THE CLASS

Name	City	State
Kevin Barbier	Denham Springs	Louisiana
Eleanor Gray	Saint Paul	Minnesota
Pamela Staida	Geneva	Ohio